

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**UNITED STATES OF AMERICA, ET AL.,
PLAINTIFFS**

**CASE NO. C-1-02-107
(SPIEGEL, J.)
(HOGAN, M.J.)**

VS.

**BOARD OF HAMILTON COUNTY
COMMISSIONERS, ET AL.,
DEFENDANTS**

REPORT AND RECOMMENDATION

RESOLUTION OF THE CLAIM OF WARDELL W. HILL III

Unlike the appeal of Katherine Dolwig, which raised the issue of *when* the loss must occur in order to be compensable, the resolution of this claim depends on *where* the obstruction causing the sewage backup took place. Mr. Hill lives on Lockman Ave. in Cincinnati. Claimant Hill asserts that his basement sewer has backed up on multiple occasions since April, 2006. Claimant Hill seeks the payment of \$6,776.71, approximately 1/3 of which is for the replacement of down spouts and bushes. Claimant Hill attaches a copy of a repair estimate from The Home Depot Comfort Center, but the document is generally unreadable. We can detect that the estimate relates to the installation of either a new furnace and air conditioning unit or the replacement of the air conditioning unit only. Mr. Hill states that his "lateral lines were clear," but MSD disputes that fact and asserts that the problem was caused by two obstructions, baby wipes and female appliances in the house lateral, which is the homeowner's responsibility to maintain. The City's position is supported by Defense Exhibits B and C, statements from the MSD crew and Dick Scott Plumbing, Inc. There is no statement from a plumber to the contrary.

The City's denial of this claim is entirely proper.

June 25, 2007


Timothy S. Hogan
United States Magistrate Judge

**NOTICE TO THE PARTIES REGARDING THE FILING
OF OBJECTIONS TO THIS R&R**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten (10) days after being served with this Report and Recommendation. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen (13) days (excluding intervening Saturdays, Sundays, and legal holidays) in the event this Report is served by mail, and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation are based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten (10) days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).

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